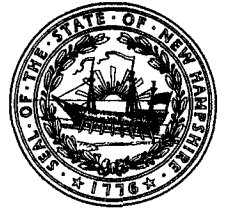




The State of New Hampshire
Department of Environmental Services

Michael P. Nolin
Commissioner



January 11, 2006

Michael D. Woodman
93 Flanders Memorial Road
Weare, NH 03281

Re: Docket No. AF 05-071 – Michael D. Woodman

Dear Mr. Woodman:

Enclosed for your records is a copy of the fully executed and accepted Motion to Accept Settlement Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,
COPY
Michael P. Sclafani,
Legal Assistant

cc: Michael J. Walls, DES, Assistant Commissioner
Harry T. Stewart, P.E., Director, Water Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
Jennifer J. Patterson, NHDOJ
DES Public Information Officer
Stergios Spanos, DES WD
George Berlandi, DES WD

Michael D. Woodman
93 Flanders Memorial Road
Weare, NH 03281

**ADMINISTRATIVE FINE
No. AF 05-071**

Re: Discharge at 12 Granite Ave, Concord, NH

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Water Division ("the Division") and Michael D. Woodman, parties to the above-captioned matter, and stipulate to the following:

1. Pursuant to RSA 485-A:13 and related sections, DES regulates the discharge of pollutants to surface waters under a permit system. As part of this program, the Commissioner of DES has adopted Env-Ws 401-405 relating to permits and has adopted Env-Ws 1700 to establish water quality standards for the state's waters.
2. Pursuant to RSA 485-A:22, V, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations relating to this program. Pursuant to this section, the Commissioner has adopted Env-C 603 to establish the schedule of fines for such violations.
3. Michael D. Woodman is an individual apparently doing business as "Thumbs Up Carpet & Upholstery Cleaning" having a business address of 26 South Main Street, Concord, NH and residing at 93 Flanders Memorial Road in Weare, NH.
4. On August 1, 2005, the Division issued Notice of Proposed Administrative Fine No. AF 05-071 ("the Notice") to Mr. Woodman, seeking fines totaling \$2,000 for violations of RSA 485-A:13 and related sections.
5. Specifically, the Notice cited Mr. Woodman for violating RSA 485-A:13, I(a) by discharging waste to a surface water of the State without a written permit from DES. For this violation, Env-C 603.05(a) specifies a fine of \$2,000 per 5,000 gallons or portion thereof discharged or \$2,000 per hour or portion thereof that the sewage or other wastes are discharged, whichever is greater. For the discharge event of July 6, 2005, the Division sought a fine of \$2,000.
6. In order to settle this matter, the Division and Michael Woodman have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
7. Of the proposed fine, 25% or \$500 will be suspended based on the small business status of Mr. Woodman's carpet cleaning business.
8. The suspended portion of the proposed fine, in the amount of \$500 is contingent upon Mr. Woodman complying with RSA 485 and Env-Ws 1700 for a period of two years from the date of the execution of this Agreement. If Mr. Woodman fails to maintain compliance during the two-

year period, the suspended portion of the fine, in the amount of \$500 shall become due and payable immediately. If Mr. Woodman maintains compliance for the prescribed two-year period the suspended portion of the fines shall be waived.

9. Michael Woodman agrees to pay the remaining fine of \$1,500 as follows: Michael Woodman agrees to pay \$500 upon execution of this Agreement. Mr. Woodman agrees to pay \$500 within 30 days from the date of this agreement. Mr. Woodman agrees to pay \$500 within 60 days from the date of this agreement.

10. Payments under Paragraph #9 and any payment that becomes due pursuant to Paragraph #8 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attn: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

11. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

12. By executing this Agreement, Mr. Woodman waives his right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

13. The effective date of this Agreement will be the date on which it is signed by, Michael D. Woodman, the Director of the Water Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

14. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Date

12/29/05

Respectfully submitted,


Michael D. Woodman, Respondent

DES Water Division

COPY

Harry T. Stewart, P.E., Director
Water Division

This Motion to Accept Settlement agreement is granted this 4th day of JANUARY, 2005.

COPY

Michael P. Walls, Commissioner
Department of Environmental Services

cc: Michael J. Walls, DES Assistant Commissioner
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Public Information Officer, DES PIP Office
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
Stergios Spanos, WWEB Compliance and Enforcement Subsection
George Berlandi, Supervisor, WWEB Permits and Compliance Section